

REMARKS/ARGUMENTS

This is responsive to the Final Office Action mailed on November 28, 2006, in the above-captioned application. The Office Action has been carefully considered and these remarks are responsive thereto. Reconsideration of the Examiner's rejection of the claims is respectfully requested.

Rejection under 35 U.S.C. § 103

Claims 1-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Robertson (2004/0024620) in view of Bienvenu (2002/088476).

Robertson describes an automobile insurance risk classification methodology in which a questionnaire is provided to applicants for automobile insurance to enable risk classification of the applicants. The questionnaire is designed to measure behavioral variables relating to personality traits and other personality or psychological characteristics of the individual. Importantly, Robertson teaches away from the use of information that can be collected about individuals (such as demographic data, credit data or past car accident information), finding this information to produce inaccurate auto insurance risk assessment, but instead teaches the use of questionnaires that gather information about the personality traits of the individual, which provides a more accurate basis for risk assessment. See, e.g., Robertson at ¶¶9-10.

Bienvenu describes a system in which prescription drug history data of a patient is requested by an insurance company and provided to the insurance company by one or more pharmacy benefit managers (PBMs). The prescription history of a patient provided by each PBM may then be integrated to provide an aggregate summary of the patient's prescription history that the insurance company may use for various purposes. One suggested purpose is the use of the prescription history to determine the "probability that the prescription indicates a particular condition" to "provide the insurer with the likelihood that the applicant or insured has each of the conditions indicated by the prescribed drug." See ¶ 0039. The insurer may also use the prescription history to make "an informed decision about the insurance related risks" by accepting, rejecting or affecting the individual's insurance rating "depending on the information in the individual's prescription history" using "actuarial tables and formulas." See ¶ 0043. No

additional discussion is provided on risk assessment, as the focus of Bienvenu is only the collection of prescription history data.

Independent claims 1 and 10 of the present application recite:

- (1) receiving demographic data on a patient and prescription data for each prescription filled by the patient;
- (2) assigning the prescription data for each prescription to at least one risk group based upon at least one medical condition typically treated by the prescription;
- (3) storing risk data for the patient, wherein the risk data includes the risk groups for all prescription data of the patient; and
- (4) calculating a risk score for the patient based upon the risk data and the demographic data of the patient.

For the reasons discussed below, the asserted combination of references does not teach or suggest the claimed invention as recited in claims 1-10.

(1) receiving demographic data on a patient and prescription data for each prescription filled by the patient;

Contrary to the Examiner's assertion, Robertson does not teach the collection of demographic data for use in the automobile insurance risk assessment process. In ¶27 of Robertson, conventional "secondary characteristics" including age and gender are rejected as "crude" and "inefficient" indicators of automobile insurance risk. As a result, the risk methodology in Robertson is not based upon such characteristics, but is instead based upon the individual's responses to specific questions (e.g., those presented in ¶¶55-58) that provide insight into the personality traits and characteristics of the individual. Therefore, Roberts neither teaches or suggests the collection or use of demographic data in a risk assessment process, but in fact teaches away from the use of such information.

Additionally, in view of Robertson's rejection of the use of demographic data in automobile insurance risk assessment, there is no motivation to combine Bienvenu's collection of such data into the Robertson methodology, which rejects as the use of such data in favor of

questionnaire responses for risk assessment. See. ¶53 (“In other words, the use of conventional variables has been found to be a fairly crude and inefficient predictor of claim reporting.”) See also ¶¶62-64 (advocating a method of assigning an individual to an automobile insurance risk group based only upon an individual’s response to one or more of the four questions in ¶¶55-58).

Moreover, Robertson does not teach or suggest the reception of prescription data, as Robertson relates to assessment of automobile insurance risk, and there would be no motivation to modify the Robertson method to add reception of prescription data described in Bienvenu. Robertson teaches the use of an automobile insurance risk assessment methodology based upon personality traits of each individual, and prescription data collected in Bienvenu has no purpose in or relation to such a methodology.

For at least these reasons, neither Robertson, nor Bienvenu, nor the asserted combination of the two references teaches or suggests the receiving function recited in claims 1 and 10.

(2) assigning the prescription data for each prescription to at least one risk group based upon at least one medical condition typically treated by the prescription;

Neither Robertson nor Bienvenu teaches or suggests this function. Robertson in no way describes or suggests the assignment of prescription data to one or more risk groups based upon medical conditions typically treated by the prescription. As discussed above, Robertson teaches an automobile insurance risk assessment methodology using a questionnaire to assess personality traits of the individual.

The paragraph in Robertson (¶64) describes assigning risk groups for automobile insurance applicants based upon their responses to one or more of the questions listed in ¶¶55-58 of the Robertson disclosure. However, claims 1 and 10 do not merely recite the assignment of risk groups, but instead require assignment of prescription data or each prescription to at least one risk group based upon the medical condition(s) typically treated by the prescription. Robertson does not teach or suggest any such function.

Moreover, Bienvenu also does not teach or suggest the recited assignment of prescription data for each prescription to one or more risk categories based upon the medical condition(s)

typically treated by the prescription. Instead, Bienvenu teaches the collection of prescription data for an individual from a plurality of PBM databases. Once collected, the system may determine category information and drug indication information for each drug (see ¶¶38 and 42 and Fig. 5, nos. 84 (drug classifications) and 88 (drug indications)). Neither of these is a risk category, nor is described as a risk category in Bienvenu. The Bienvenu system may also determine the probability that the prescription indicates a particular condition. See ¶39. Bienvenu also states that “expert rule systems may be incorporated within the system for providing mortality information based on the prescription drug history information.” ¶39. However, no further explanation or disclosure of these concepts is provided. Therefore, even assuming the description alludes to some sort of risk assessment based upon all prescriptions for an individual, the description does not teach, suggest or enable the assignment of prescription data for each prescription to at least one risk group based upon at least one medical condition typically treated by the prescription as recited in claims 1 and 10. In fact, the risk assessment process in Bienvenu is performed by insurers, having received the collected prescription information, using conventional actuarial tables and formulas as would be known to those of ordinary skill in the art. See ¶43. No further description of the risk assessment process is provided in Bienvenu.

Consequently, neither Robertson, nor Bienvenu, nor the asserted combination of the two references teaches or suggests the assignment function recited in claims 1 and 10.

(3) storing risk data for the patient, wherein the risk data includes the risk groups for all prescription data of the patient;

As discussed above, Robertson does not teach or suggest the generation or storing of risk data for a patient including risk groups for all prescription data of the patient. Instead, Robertson teaches generation of automobile risk assessment groups based upon an individual’s responses to questionnaire questions that assess personality traits of the individual.

Moreover, while Bienvenu generally refers to risk assessment based upon prescription data (see ¶ 43), it provides no details concerning this process. Therefore, Bienvenu does not

teach or suggest the generation of risk data including the risk groups for all prescription data of the patient as expressly recited in claims 1 and 10.

For at least these reasons, neither Robertson, nor Bienvenu, nor the asserted combination of the two references teaches or suggests the storing function recited in claims 1 and 10.

(4) calculating a risk score for the patient based upon the risk data and the demographic data of the patient.

As discussed above, Robertson does not teach or suggest the generation or storing of risk data for a patient including risk groups for all prescription data of the patient. Instead, Robertson teaches generation of automobile risk assessment groups based upon an individual's responses to questionnaire questions that assess personality traits of the individual. Therefore, Robertson also does not teach or suggest the claimed function of calculating a risk score based upon the risk data and demographic data of the patient. In fact, Robertson teaches away from the use of demographic and other types of collectable incident-based information in favor of questionnaire responses concerning personality traits as a more accurate risk assessment method.

Also, while Bienvenu generally refers to risk assessment based upon prescription data (see ¶ 43), it provides no details concerning this process. Therefore, Bienvenu does not teach or suggest the calculation of a risk score based upon the risk data and demographic data of the patient as expressly recited in claims 1 and 10.

For at least these reasons, neither Robertson, nor Bienvenu, nor the asserted combination of the two references teaches or suggests the calculating function recited in claims 1 and 10.

Pending claims 2-9 depend from claim 1 and are believed to be patentable over the asserted combination of references for at least those reasons set forth above with reference to claim 1.

Conclusion

This application now stands in allowable form and reconsideration and allowance is respectfully requested.

Respectfully submitted,

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Date: 1/25/2007

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